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October 18, 1995

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

BY HAND

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

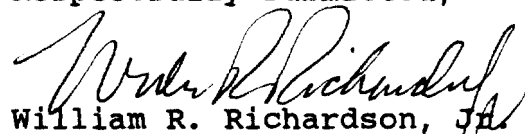
Re: MM Docket No. 92-266
Ex Parte Presentation

Dear Mr. Caton:

On behalf of ValueVision International, Inc. ("ValueVision"), and pursuant to Section 1.1206 of the Commission's Rules, enclosed are two copies of a written communication submitted today in connection with the status of ValueVision's pending petition for reconsideration with respect to leased access in the above referenced docket.

If there are any questions concerning the above-referenced matter, please communicate with the undersigned.

Respectfully submitted,


William R. Richardson, Jr.

Enclosure

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The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: MM Docket No. 92-266

Dear Chairman Hundt:

On behalf of ValueVision International, Inc. ("ValueVision"), I am writing to express our client's serious concerns about the unusual delay in Commission action on petitions for reconsideration of the commercial leased access rules, filed by ValueVision and other cable programmers unaffiliated with cable operators.

It has now been almost two and a half years since the Commission promulgated its initial leased access rules, which it made clear at the time were only "a starting point that will need refinement . . . through the rulemaking process." 8 FCC Rcd 5631, 5936 (1993). We are distressed by the Commission's continuing inability to resolve a serious problem that in 1990 it recommended to Congress needed action, and that Congress subsequently directed the Commission to resolve. See id. at 5934-36.

The serious nature of this competitive problem has been fully addressed by ValueVision (and others) in filings with the Commission. See, e.g., [ValueVision] Petition for Reconsideration (June 21, 1993). The delay in resolving that problem has already substantially disrupted ValueVision's business. To cite merely one example, ValueVision has now lost access to some 900,000 TCI subscribers since the Commission adopted its initial rules. Yet as the only real viewing

alternative to the QVC/HSN services controlled by TCI and Comcast, ValueVision offers precisely the kind of video programming competition that the 1992 Cable Act sought to promote.

The effect of Commission inaction on viewers is graphically illustrated by the enclosed recent letter from a subscriber of a system currently being sold to TCI. The system advised her that the Commission's rules required it to charge ValueVision rates far in excess of those paid by its vertically integrated competitors, and thus that the matter was "beyond [the operator's] control". The system invited her to view three HSN/QVC channels instead, despite her preference to the contrary. Her note to ValueVision: "We miss you. Sorry, I tried."

While the petitions for reconsideration raise a number of legal issues, we respectfully submit that it is not responsive to the congressional mandate to delay action in resolving the leased access problem simply because it may be a complex one. There are many such difficult issues for which Congress relies upon the agency's expert judgment, and many of them that the Commission tackles with commendable promptness. At a time when there is greater scrutiny of the role of the Commission, failing for two and a half years to resolve serious competitive problems Congress directed the Commission to address seems difficult to understand.

ValueVision's problems are hardly unique. See, e.g., United Broadcasting Corp. d/b/a/ Telemiami, 9 FCC Rcd 3651 (CSB 1994); Denver Area Educational Telecommunications Consortium, Inc., CSR-4595-L (filed Sept. 26, 1995). Indeed, ValueVision and others have met on numerous occasions with a variety of Commission personnel on this subject, all of whom seem to agree that prompt action on these long pending petitions for reconsideration is necessary. ValueVision's bipartisan congressional delegation, at its instance, also inquired as to the expected timing of Commission action. In your July 1995 response you noted that the Commission staff "is currently working to resolve these important issues" and expressed the hope that the Commission can do so "in the near future". This is a situation that is immediately and substantially injuring ValueVision as the only real source of competition to QVC/HSN. Accordingly, ValueVision believes that absent prompt resolution of this problem it will have no other choice but to seek legal action to compel the Commission to discharge the clear mandate of the 1992 Cable Act.

Respectfully submitted,


William R. Richardson, Jr.

Enclosure

cc: Honorable James H. Quello
Honorable Andrew C. Barrett
Honorable Rachelle B. Chong
Honorable Susan Ness
William E. Kennard, Esq.

Laura D'Andrea Tyson

Honorable Albert Gore Jr.
Greg C. Simon

Honorable Larry Irving

Honorable Ernest F. Hollings
Honorable John D. Dingell
Honorable Edward J. Markey

Honorable Paul D. Wellstone
Honorable Rod Grams
Honorable Bruce F. Vento
Honorable Martin Olav Sabo
Honorable Jim Ramstad
Honorable William P. Luther

VIACOM CABLE*More of What You're Looking For.*

June 9, 1995

Ms Martha Pearl
1955 22nd Ave.
San Francisco, CA 94116

Dear Ms. Pearl:

I am in receipt of your letter of June 5, 1995 regarding the "removal" of ValueVision and the "low character" of the programs we "are permitting." I can only sympathize with you but can do little else as to the nature of the programming on channel 47 is beyond Viacom's control.

Federal law require Viacom to provide a "Leased Access" channel. We must sell time, at regulated rates, to anyone wishing to put on a program and we are prohibited from controlling the content. ValueVision, as you know, chose not to pay the fee.

Thank you for taking the time to write. I hope that you will continue to enjoy home shopping on HSC (ch. 48), QVC (ch. 49) and Q2 (ch 50).

Cordially,

Barrett Giorgis
Program Director

pearl.jun
ja.6/9/95

*To Value Vision -
We Miss you.
Sorry, I tried* *Martha Pearl*

1855 Folsom • San Francisco, CA 94103 • Telephone: 415 252-6306